

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

ALISHA W. WILKES,)	
)	
Plaintiff,)	NO. 1:10-cv-00160
)	(CMH-TRJ)
-vs-)	
)	
GMAC MORTGAGE, LLC, et al.,)	
)	DEPOSITION OF
Defendants.)	LORI AGUIAR

The deposition of MS. LORI AGUIAR called as a witness by the plaintiff in the above-entitled action, pursuant to notice and taken before Brenda L. Bodensteiner Klenk, Certified Shorthand Reporter, Registered Professional Reporter, and Notary Public, at GMAC Mortgage, LLC, 3451 Hammond Avenue, Waterloo, Iowa, on April 25, 2011, at 12:10 p.m.

APPEARANCES:

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24

VIDEOGRAPHER:

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David Seuferer, Video Specialists LLC

Page 2

1 (meets" --

2 Q. And of course, you did not use that code for any of
3 the Wilkes' ACDVs; correct?

4 A. Correct.

5 Q. How often, if at all, do you use that code?

6 MR. LYNCH: I'm going to object to form.

7 A. We no longer use that code.

8 BY MR. BENNETT:

9 Q. Do you know when you stopped using that code?

10 A. No.

11 Q. Would that have been about the same time that you
12 stopped noting accounts as disputed?

13 A. Yes.

14 Q. Well, let's -- let's walk through -- since we
15 have the ACDVs and we have your manual out, can you walk me
16 through the Wilkes investigation or dispute process that you
17 would have followed.

18 A. Okay.

19 Q. Let's start with the first ACDV says Response
20 Date with March 19, 2010. That is the top left. That is
21 the date that you would have sent this -- GMAC would have
22 sent this back to credit reporting agencies; correct?

23 A. Correct.

24 Q. And I know that this first ACDV is from Experian.
25 Is there any way that you're able to tell that by looking at
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1 your copy of the ACDV?

2 A. The subscriber code. I do not have the subscriber
3 codes with me.

4 Q. So do you know whether or not this -- other than my
5 representation, whether or not this came from Experian?

6 A. No.

7 Q. By the way, are you the person that would have
8 accessed and pulled these ACDVs out for the lawyers in this
9 case?

10 A. No, I did not.

11 Q. You were not that person?

12 A. No.

13 Q. Do you know who did that?

14 A. No. I do not know for sure.

15 Q. Who do you believe did it?

16 A. I cannot say for sure.

17 Q. Okay. Who -- recognizing your uncertainty, who do
18 you think is the most likely person to have done it?

19 MR. LYNCH: Objection, form.

20 You can answer.

21 A. Our supervisor, Lynn Manning.

22 BY MR. BENNETT:

23 Q. And why would you guesstimate that she was the one
24 that did that?

25 MR. LYNCH: Objection, form.

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1 A. Yes. And AUD would be -- we would send that if
2 we wanted to send an update to the credit bureaus on an
3 account.

4 Q. Do the ACDVs appear in a particular order? Or do
5 you shop through them and choose the ACDV to work on?

6 A. We just pick ACDVs at random.

7 Q. And so let's walk through these ACDVs that are in
8 Exhibit 2.

9 A. Okay.

10 Q. When you received the ACDV -- well, let me step
11 back.

12 Earlier you testified that you reviewed the Fiserv
13 notes for this account. Do you recall that testimony?

14 A. Yes.

15 Q. You don't recall what you were wearing on March 19,
16 2010, do you?

17 A. No.

18 Q. And you don't recall -- I think you said you didn't
19 even recall how many coworkers you had at that time?

20 A. Correct.

21 Q. You didn't recall even a tight range of how many
22 ACDVs you would have done that day; right?

23 MR. LYNCH: Objection to form.

24 You can answer.

25 A. Correct.

1 BY MR. BENNETT:

2 Q. Is that correct?

3 A. Yes.

4 Q. So how do you recall -- under oath how do you
5 recall the specific actions or notes that you took on a
6 particular ACDV over a year ago?

7 A. I would have followed our normal procedures in
8 responding to an ACDV.

9 Q. So when you say you would have looked at the notes,
10 you're not actually testifying that you recall looking at
11 the notes?

12 A. Yes. I always look at the notes.

13 Q. I understand. That's a different testimony.

14 But in your mind you don't have a specific
15 recollection sitting here today of looking at the Wilkes'
16 notes?

17 A. No, not that specific day; no.

18 Q. All right. Your testimony is because you're
19 confident that you follow GMAC's uniform procedures?

20 A. Yes.

21 Q. What happens to you if you don't follow GMAC's
22 credit reporting investigation procedures?

23 MR. LYNCH: I'm going to object to form.

24 You can answer.

25 A. I guess I really wouldn't know how to answer that.
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1 A. Yes.

2 Q. And what is your per hour wage?

3 A. Just under \$16.

4 Q. And do you know what your wage was in 2010?

5 A. No, I do not recall.

6 Q. Do you know if it was more or less?

7 A. Less.

8 Q. And how is your hourly wage determined?

9 A. I don't know the procedures on that.

10 Q. Does your performance review impact it?

11 A. Yes.

12 Q. That determination?

13 A. Yes.

14 Q. Now, if you'll take a look at Exhibit 2. And you
15 can put Exhibit 1 right next to it for me.

16 A. Okay.

17 Q. When you received -- you open up your e-OSCAR and
18 you receive an ACDV that's randomly assigned. Let's assume
19 then that that's what happens for this first Wilkes ACDV,
20 Exhibit 2, Pages 1 and 2 --

21 A. Okay.

22 Q. -- of the exhibit.

23 Help me understand what procedures you would have
24 followed using Exhibit 1.

25 A. Okay. I first would have gone to our Fiserv

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1 system, verified the name, Social Security number, and
2 mailing address.

3 Q. All right. Let's -- because the jury might not
4 have this background, looking at Exhibit 2, the ACDV . . .

5 A. Yes.

6 Q. Where it says Consumer Information, do you see that
7 third section down?

8 A. Yes.

9 Q. When the ACDV comes in, what parts of this are
10 filled in from the credit reporting agency before GMAC's
11 done anything?

12 A. The dispute information. Well -- and then the --
13 under Request Data under Consumer Information.

14 Q. Well, under the Consumer Information you'll see
15 this ACDV has two sections that are white and two that are
16 gray?

17 A. Correct.

18 Q. All right. The two columns that are white, those
19 are the ones that were already on the ACDV when it came in
20 from Experian; correct?

21 A. Correct.

22 Q. And the two shades -- the two shaded or gray
23 columns, those are the ones that GMAC would have added?

24 A. Correct.

25 Q. And so when you say that you verified the name and
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1 address and Social Security number, what you're meaning is
2 the work that you did with this section of the ACDV; is that
3 right?

4 A. Right.

5 Q. So you would have opened up the Fiserv system, and
6 there's a screen that would have included this customer
7 information data, the name, address, Social, et cetera;
8 correct?

9 A. Correct.

10 Q. What is that screen?

11 A. Cus Loan?

12 Q. I'm sorry?

13 A. Cus Loan, c-u-s l-o-a-n.

14 Q. Okay. And what does that screen have on it?

15 A. The customer's name, property and mailing address,
16 most of the account, you know, information like principal
17 balance, payment amount, payment type, loan type.

18 Q. So then looking at this ACDV, you would have looked
19 at the Fiserv screen. And on the right where it says Same,
20 you would have concluded that your computer had the same
21 information that the credit reporting agency computer had;
22 correct?

23 A. Correct.

24 Q. And where it says Unknown, for example, date of
25 birth, you would have concluded that you did not know --

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1 your computer system did not tell you what Ms. Wilkes' date
2 of birth was?

3 A. Correct.

4 Q. And then where it says Different under current
5 address, you had a different address than what the credit
6 reporting agency was listing as Ms. Wilkes' current address;
7 correct?

8 A. Correct.

9 Q. So after looking at the Fiserv system -- and I
10 guess that's your first major step is determining what
11 matches in this consumer information section; right?

12 A. Right.

13 Q. And what's the next step that you would have
14 followed in handling Ms. Wilkes' ACDV?

15 A. Then I would have gone to our ISS application.

16 Q. What is the ISS application?

17 A. That houses our copies of our original documents
18 for each account.

19 Q. When do you use the ISS system for an ACDV?

20 A. We use that to also verify the name and Social
21 Security number.

22 Q. Would that be true -- if you look at the top, do
23 you see where it says FCRA Relevant Information?

24 A. Yes.

25 Q. You would have understood -- you would have read
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1 A. To determine --

2 Q. But the GMAC procedures for handling these credit
3 reporting disputes do not put -- do not inform or involve
4 the identity theft until after the ACDV has already verified
5 the account as owing?

6 MR. LYNCH: I'm going to object to form.

7 But you can answer.

8 A. Correct.

9 BY MR. BENNETT:

10 Q. Does GMAC use any automated systems that -- that
11 don't involve a human being reading the ACDV?

12 A. No.

13 Q. I'm sorry. Did you answer, or are you thinking?

14 MR. LYNCH: She answered.

15 BY MR. BENNETT:

16 Q. I'm sorry. What was your answer?

17 A. I said no.

18 Q. Have you had an opportunity to determine if there
19 were any other ACDVs received on this account besides those
20 in March 2010?

21 A. No, I have not.

22 Q. Looking at the ACDVs that follow in Exhibit 2, the
23 first at the top is dated March 19, 2010. That's the one
24 we've just described; correct?

25 A. Correct.

1 Q. The second, which is the third page of this
2 exhibit -- third and fourth page, this is an ACDV that you
3 also worked on dated March 24, 2010; correct?

4 A. Correct.

5 Q. And would you have put two and two together to
6 connect these? I mean, your recollection of one dispute
7 versus another?

8 MR. LYNCH: I'm going to object to form.

9 You can answer.

10 A. Well, I would have read in the notes that I had
11 previously responded to an ACDV on March 19th. But I would
12 still use the same procedures that we follow and verify, you
13 know, the name and Social Security on Fiserv and the
14 original documents.

15 BY MR. BENNETT:

16 Q. Do you see the second page of that second ACDV
17 which is -- at the bottom it says 260.

18 A. Yes.

19 Q. At the top it says SCC. What does that mean?

20 A. I believe that would be the Special Comment Code.

21 Q. And this was also true -- this code, the SCC, was
22 also reported for the first ACDV that we discussed; right?

23 A. Correct.

24 Q. So even though you changed the account status from
25 foreclosure proceedings started to 180 days past due, GMAC

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1 also still reported that the consumer was subject to a
2 foreclosure; correct?

3 A. Right. That foreclosure proceedings had started.

4 Q. The third ACDV starts on Page 5 of the exhibit, 5
5 and 6. The Bates number is 261 and 262.

6 A. Yes.

7 Q. And this you would have processed -- this ACDV you
8 would have processed in the same way as the previous two or
9 the other two; correct?

10 A. Correct.

11 Q. Now, the next ACDV, Page 7 of the exhibit or
12 Bates No. 263, this is an ACDV that was performed by Allison
13 Higgins. Do you see that?

14 A. Yes.

15 Q. Is she the other credit reporter? You said you had
16 two?

17 A. Yes.

18 Q. And is her job the same basic position as you hold?

19 A. Yes.

20 Q. Do you know how long Allison has been with GMAC?

21 A. She just had her five-year anniversary.

22 Q. But her position is the same as yours functionally;
23 right?

24 A. Yes.

25 Q. Do you have anybody that reports to you?

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1 A. No.

2 Q. The very last ACDV -- maybe I can't tell, but it
3 seems to be a duplicate. Well, no. It's not a duplicate.
4 But it's another one that came in March 19th that you
5 handled; correct?

6 A. Correct.

7 Q. But you would have handled this one exactly the
8 same way?

9 A. Yes.

10 MR. LYNCH: All right. Let's go off the record for
11 a minute. I'm going to call my co-counsel.

12 THE VIDEOGRAPHER: We're off the record at
13 2:39 p.m.

14 (Brief recess taken.)

15 THE VIDEOGRAPHER: We're on the record at 2:41 p.m.

16 BY MR. BENNETT:

17 Q. Ma'am, we've talked about the procedures that GMAC
18 has you follow. I don't -- I don't note anywhere in here
19 where it permits you to actually have direct contact with
20 the consumer. Is that part of your ACDV dispute process for
21 any particular disputes?

22 A. No.

23 Q. Do you know why that's the case, why you're not
24 permitted to --

25 A. No.